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## Appeal Decision

Site visit made on 15 July 2019

**by Rachael Pipkin, BA (Hons), MPhil, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 8<sup>th</sup> August 2019**

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**Appeal Ref: APP/W1850/W/19/3225568**

**Balance Farm, Eywood Lane, Titley, HR5 3RU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of an outline planning permission.
  - The appeal is made by Mrs Angela Vaughan against the decision of Herefordshire Council.
  - The application Ref: 181476 dated 19 April 2018, sought approval of details pursuant to conditions Nos. 3 and 4 of an outline planning permission Ref: P160581/O granted on 27 July 2016.
  - The application was refused by notice dated 28 September 2018.
  - The development proposed is for the erection of 5 no. four-bedroom dwellings.
  - The details for which approval is sought are: access.
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### Decision

1. The appeal is allowed, and the reserved matter is approved, namely access details submitted in pursuance of conditions Nos. 3 and 4 of outline planning permission Ref: P160581/O dated 27 July 2016, subject to the conditions set out below:
  - 1) The development hereby approved shall be carried out in accordance with the approved drawings numbered: Location Plan dated 13 August 2015, SK01 Rev B and SK03 Rev A.
  - 2) Before any other works hereby approved commence on site, visibility splays shall be provided from a point 0.6 metres above ground at the centre of the access to the application site and 2 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 33 metres in each direction along the nearside edge of the adjoining carriageway in accordance with the details shown on approved drawing SK03 Rev A. The visibility splay shall be retained hereafter, and nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.
  - 3) Before the occupation of any dwelling hereby approved, the vehicular access shall be constructed in accordance with approved drawings SK01 Rev B and SK03 Rev A. The vehicular access shall be retained thereafter.

## **Application for costs**

2. An application for costs was made by Mrs Angela Vaughan against Herefordshire Council. This application is the subject of a separate Decision.

## **Procedural Matter**

3. Notwithstanding the precise wording of the reasons for refusal set out in the Council's decision notice, the matters before me relate to the actual access to the site and the issues of the additional traffic on the junction of Eywood Lane and the B4355. As this appeal concerns reserved matters, off site works cannot be taken into account. It appears that the Council has accepted the procedural issue in terms of the scope of matters that can be considered as reserved matters. I have therefore only dealt with site access arrangements in my decision.

## **Main Issue**

4. The main issue is the effect of the proposed site access on highway safety.

## **Reasons**

5. The appeal site is an area of land on the north side of Eywood Lane, a narrow, single track non-through road and unclassified and derestricted highway. It is located some distance west from the junction with the B4355 and adjacent to the entrance to Eywood Park, a registered Park and Garden.
6. The site access would be onto Eywood Lane via an existing farm access. Despite having been used for many years, there is nothing before me to suggest a history of accidents at the site access nor along Eywood Lane more generally or its junction with the B4355. This indicates to me that users of Eywood Lane tend to live locally, are well aware of the road's limitations and drive accordingly.
7. I observed during my site visit that there were relatively few vehicles using Eywood Lane and that traffic did not appear to travel at a great speed along the road. I acknowledge that the road may sometimes be busier although no firm evidence is before me to suggest that the road is normally heavily trafficked. The appellant has provided a speed survey which suggests that traffic travels at approximately 25mph. This is consistent with my own observations.
8. The site access would be brought up to modern standards as part of the development with visibility splays of 2m x 33m being provided in either direction, with some minor trimming of roadside hedges. In view of the recorded speeds, the Highway Authority has indicated that these splays would be appropriate and in accordance with the standards set out in the Manual for Streets 2 (2010). I have no reason to dispute this.
9. I have been made aware of an appeal decision<sup>1</sup> for a development of five houses on an adjacent parcel of land also forming part of Balance Farm which would share the same site access as the site forming part of this appeal. Based on the information submitted as part of that appeal and in the absence of any speed readings, the Inspector found that the visibility splays for a 60mph road were not acceptable. In this case, I have been provided with

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<sup>1</sup> APP/W1850/W/17/3168668

speed data which indicates a lower speed of traffic. This has been accepted by the Highway Authority.

10. I conclude that the proposed site access would not harm highway safety. It would therefore comply with Policy MT1 of the Herefordshire Local Plan Core Strategy 2015 which requires, amongst other things, development proposals to be designed and laid out to achieve safe entrance and exit onto the highway.

### **Other Matters**

11. The Inspector in the appeal on the adjacent site concluded that the impact of the additional housing on highway safety at the junction of Eywood Lane and the B4355 would be unacceptable. I recognise that this is an ongoing concern for local residents in respect of this appeal. However, the matter before me is only to consider the acceptability of the access onto the site and not the wider impacts of the development which has already been granted planning permission.
12. I have also been made aware that the appeal site has not been identified for housing in the emerging Titley Group Neighbourhood Development Plan. However, as the matter before me relates to a matter of detail in respect of an existing permission, the inclusion of this site is not relevant to my decision. Furthermore, as this is an emerging plan, I have given this very limited weight in my decision.
13. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. The proposed development would require some limited cutting back of the boundary hedge to Balance Farm, a Grade II listed building to the east of the site. However, since the hedge itself would remain in place, I conclude the development would not have an unacceptable impact on the listed building or its setting and would preserve the significance of the designated heritage asset.
14. The site access arrangements would be adjacent to the entrance to the registered grade II Eywood Park. While the inclusion of an historic park or garden on the register brings no additional statutory controls, registration is a material consideration. The proposed development would retain the existing pillar and largely be related to surface works. It would not therefore materially change the park entrance. I therefore conclude it would preserve the setting of this heritage asset.

### **Conditions**

15. The Council has suggested conditions in the event that the appeal is allowed. I have considered these and imposed them where they meet the tests set out in Paragraph 55 of the Framework, amending where necessary for the sake of simplicity, clarity and precision.
16. I have imposed a condition requiring the development to be carried out in accordance with the approved plans, in the interests of certainty. In the interests of highway safety, conditions relating to the construction and

retention of the vehicular access; and visibility splay and its ongoing retention free from obstruction, are necessary.

**Conclusion**

17. For the reasons set out above, the appeal should be allowed.

*Rachael Pipkin*

Inspector